

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GKN SINTER METALS, INC.^{1/}

Employer

and

CASE 7-RC-22411

**INTERNATIONAL UNION, UNITED AUTOMOBILE,
AEROSPACE AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW), AFL-CIO**^{2/}

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:^{3/}

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.^{4/}
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees employed by the Employer at its facility at 8111 Middlebelt Road, Romulus, Michigan; but excluding all office clerical employees, and guards and supervisors as defined in the Act.^{5/}

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction and supervision of the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period

because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

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LIST OF VOTERS^{*}

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within **7** days of the date of this Decision **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **March 31, 2003**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by **April 7, 2003**.



Dated March 24, 2003

at Detroit, Michigan

Regional Director, Region Seven

Section 103.20 of the Board's Rules concerns the posting of election notices. Your attention is directed to the attached copy of that Section.

^{*}If the election involves professional and nonprofessional employees, it is requested that separate lists be submitted for each voting group.

1/ The Employer's name appears as corrected at the hearing.

2/ The Petitioner's name appears as corrected at the hearing.

3/ Both parties filed briefs, which were carefully considered.

4/ The Employer contends that two separate labor organizations claim an interest in representing its employees and that due process failed because only one of them received notice of this proceeding. I find, contrary to the Employer, that only one labor organization seeks to represent the employees at issue and that no breach of due process has occurred.

The Petitioner's organizing drive began when an employee of the Employer contacted UAW International Representative James Juracek and asked for the UAW's help. Juracek delegated organizing responsibilities to UAW organizer Miguel Foster. Foster met with interested employees at UAW Region 1A and encouraged them to form a committee for the purpose of carrying the UAW's message into the Employer's workplace. Employees interested in aiding the UAW's organizing efforts were designated the Volunteer Organizing Committee. Forming a VOC is a routine step in most UAW organizing campaigns.

The VOC and other employee supporters of the UAW continued to meet periodically with UAW representatives at UAW Region 1A. The employees involved shared the goal of achieving collective-bargaining representation by the UAW. No VOC meetings were held other than at UAW Region 1A. The only campaign literature that VOC members distributed was prepared by and for the UAW.

About February 10, 2003, Foster prepared a letter for VOC members to present to the Employer. The letter asked "Management of GKN...to recognize our union, with the UAW" and was signed by 34 employees under the phrase "Volunteer Organizing Committee." About the same time, Foster prepared and made copies of a flyer for distribution by VOC members to employees at the Employer's facility. The flyer announced that co-workers "are getting educated about the UAW" and "have started a Volunteer Organizing Committee that is open to anyone." The flyer showed a copy of the recognition demand on the reverse side.

About February 10 or 11, certain employees presented the Employer with the letter that Foster prepared requesting recognition of the UAW. Afterward, employees reported what happened during the transaction to Foster. In a responsive memo to employees dated February 10, the Employer wrote, "Today we received a 'demand for recognition' from the United Autoworkers of America (UAW). This type of demand is an effort by the UAW to represent GKN Sinter Metals Romulus employees without petitioning for a secret ballot election." There is no evidence that the Employer has received any other recent requests for recognition.

The VOC is a collective name for individual employees who are interested in working to achieve UAW representation. The VOC has no formal structure, constitution, or bylaws. It has no officers, nor does it collect dues. It has no purpose or function independent of the UAW. As a creature of the UAW, consisting of UAW supporters who share the goal of obtaining UAW representation, the VOC exists only to further the UAW's recognitional objective.

The Employer raises VOC's status as a springboard for claiming that two labor organizations seek to represent its employees. However, it is patent that the VOC, however it may be characterized, does not advance its own separate or rival representational claim. The question of whether VOC members may meet the Act's definition of "labor organization" is therefore academic. Whether or not the VOC satisfies the statutory definition, the Employer faces only one recognitional demand, which is that made by the Petitioner.

The Employer argues on brief that the hearing should be reopened to give notice and an opportunity to the VOC to intervene or litigate issues relative to the petition. As the VOC is an instrument of the UAW, notice to the latter arguably served as notice to the former. It is also unclear that the Employer even has standing to raise the due process rights of another. At any rate, two employees who signed the UAW's recognition request as VOC members attended the hearing as UAW witnesses. Though provided opportunity at the hearing, neither they nor anyone else sought to intervene or participate on behalf of the VOC. Nor has the VOC administratively submitted any showing of interest to indicate that it wishes representation separate from Petitioner or its own place on the ballot.

Only one labor organization claims to represent certain employees of the Employer. The Employer's motion to reopen the record is denied.

5/ The parties stipulated to the appropriateness of a production and maintenance unit, which they agreed includes pact organizers, quality analysts, quality technicians, compaction leaders, forged leaders, secondary leaders, maintenance leaders, and shipping and receiving employees. There are approximately 223 or 224 employees in the stipulated unit. The placement of 13 additional employees - 7 laboratory technicians, 1 process technician #1, 1 process technician #2, 1 materials technician, 2 shipping coordinators, and 1 maintenance coordinator - remains in dispute and will be resolved, if necessary, in a post-election proceeding.

CLASSIFICATIONS

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308 6000